



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
KNOXVILLE ENVIRONMENTAL FIELD OFFICE

3711 MIDDLEBROOK PIKE  
KNOXVILLE, TENNESSEE 37921-6538

PHONE (865) 594-6035 STATEWIDE 1-888-891-8332 FAX (865) 594-6105

July 6, 2009

Mr. Reece Patterson, Attorney-In-Fact  
National Coal Corporation  
P. O. Box 465  
Jacksboro, TN 37757

RE: National Coal Corporation, Tipple No. 2, OSM Permit No. 3142  
Application Deficiencies for §401 Certification/Aquatic Resource Alteration Permit  
ARAP #NR09MS.023  
Campbell County

Dear Mr. Patterson:

We have reviewed your application for a §401 Certification/Aquatic Resource Alteration Permit for stream alterations associated with the development of a refuse area at the Tipple No. 2 site. The proposed ARAP activities may be affected by changes during review of the NPDES and SMCRA permit applications. Therefore, the ARAP application must be considered deficient until the NPDES and SMCRA permit applications are technically complete. The §401 Certification/Aquatic Resource Alteration Permit will be issued concurrently with the NPDES permit.

The following deficiencies were identified and must be corrected to process your application:

- The information in Section 8: Project Description must be completed in its entirety in order to process the application. A detailed characterization of the waters being altered must be part of this section with representative photographs of the stream reaches to be altered.
- The information in Section 10: Alternatives must be completed in its entirety in order to process the application.
- The information in Section 11: Mitigation must be completed in its entirety in order to process the application. The mitigation for the proposed alterations must be identified before the application can be considered complete.
- The mitigation must be "in kind" and provide restoration and enhancements of such character as to achieve "no net loss of resource value" consistent with Aquatic Resource Alteration Rule 1200-4-7. The *Stream Mitigation Guidelines* are available at

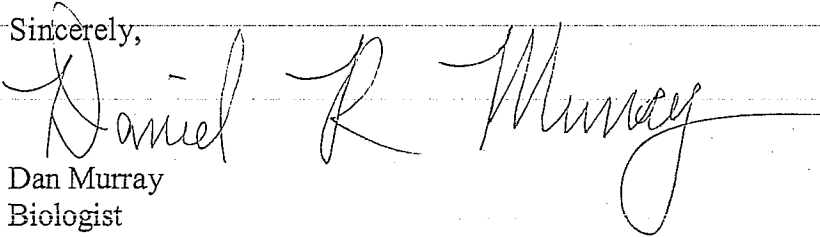
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<http://www.state.tn.us/environment/wpc/publications/StreamMitigationGuidelines.pdf> and  
can be followed to achieve mitigation consistent with state regulations.

- The information in Section 12: Technical Information must be completed in its entirety in order to process the application.

If you have an objection to issuance of the permit concurrent with the NPDES permit or you need additional information or clarification, please contact Dave Turner at (865) 594-5541 or Dan Murray at (865) 594-5549.

Sincerely,



Dan Murray  
Biologist  
Division of Water Pollution Control  
Mining Section

DAO: DAT: DRM

cc: TN0053848 File  
Mr. Tim K Slone, IRTEC  
Mr. Bill Winters, OSM  
Mr. Forrest McDaniel, USACE